

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

DAKOTA NELSON;
BELINDA BIAFORE, individually and as
Chairperson of the West Virginia Democratic Party;
ELAINE A. HARRIS, individually and as
Chairperson of the Kanawha County Democratic Executive Committee;
WEST VIRGINIA DEMOCRATIC PARTY; and
WEST VIRGINIA HOUSE LEGISLATIVE COMMITTEE,

Plaintiffs,

v.

CIVIL ACTION NO. 3:19-0898

MAC WARNER in his official capacity as
West Virginia Secretary of State; and
VERA MCCORMICK, in her official capacity as
Clerk of Kanawha County, West Virginia, and all
ballot commissioners for the state of West Virginia,

Defendants.

ORDER

Pending is defendant Secretary of State Mac Warner's Motion to Quash the subpoena requiring him to appear and testify at trial in this case. ECF No. 92. After considering the parties' arguments, the Court concludes that squashing the subpoena under Federal Rule of Civil Procedure 45(d)(3)(A)(iv) is not warranted. The Secretary is a defendant in this action. All of the parties listed him as a trial witness in their Rule 26(a)(3) disclosures. ECF No. 64. And the plaintiffs explained that the Secretary will provide testimony relevant to his power to effectuate relief, whether relief can be accomplished without undue burden in time for the November election, and which forms of potential relief the Secretary finds acceptable. ECF No. 94 at 2. This testimony is relevant to

the plaintiffs' case, and the Secretary's vague claims about needing to fulfill his duties regarding municipal elections are insufficient to show his appearance at trial will impose an undue burden. The Court therefore **DENIES** the Secretary's Motion to Quash, ECF No. 92, and **DIRECTS** the Clerk to send a copy of this Order to all counsel of record.

ENTER: July 23, 2020

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE